



Senators Hutchison, Feinstein and Kyl Urge Action to Help Border Hospitals Make Up Loss from Undocumented Aliens

Letter to CMS Administrator calls for implementation of program delivering millions to health care providers burdened by unpaid bills

February 16, 2005

Washington – Senators Kay Bailey Hutchison (R-TX), Dianne Feinstein (D-CA) and Jon Kyl (R-AZ) have sent a letter to Centers for Medicare and Medicaid Services (CMS) Administrator Mark McClellan urging rapid implementation of a hospital reimbursement program for emergency care to unauthorized aliens. The program to provide \$250 million annually to local hospitals has yet to begin despite an original start date set for September 1, 2004.

Sen. Hutchison originated the letter after CMS acknowledged that it has not yet set a starting date for the program signed into law December 8, 2003, as part of the Medicare Prescription Drug, Improvement and Modernization Act. Congress mandated the program be in place September 1, 2004, with payments beginning in December 2004. Meanwhile, healthcare providers are required by federal law to provide this emergency care, incurring all costs as the delay continues.

“This funding is critical to the survival of healthcare providers in Texas and other border states,” Sen. Hutchison said. “These hospitals deserve timely action on a program already passed by Congress and signed by the president. Immediate relief must be provided while we remain focused on developing a long-term solution to eliminate this growing financial problem burdening our healthcare providers.”

“The Federal government has consistently failed to respond to the needs of state and local communities struggling to stay afloat on account of the growing costs of illegal immigration. And all too frequently, local communities are forced to shoulder this burden alone,” Senator Feinstein said. “California’s hospitals, for instance, spent \$79 million to provide emergency health care to undocumented immigrants, and nationwide, states and hospitals spent billions more in to provide federally-mandated emergency medical treatment to undocumented immigrants. Given the budget crunches facing state and local governments, it is time for the Federal government to step up to the plate.”

“It is unfair for our hospitals to bear a hugely disproportionate burden for mandated emergency health treatment for illegal aliens,” Kyl said. “This affects everyone who needs emergency medical care. A lot of other states don’t feel that illegal immigration is a major problem because it’s not perceived as *their* problem, but the reality is that illegal immigration is a genuinely national issue, and resolving it requires a national commitment not just on health care but also border control, law enforcement and other resources.”

The letter, attached below, cites a recent U.S.-Mexico Border Counties Coalition study that found healthcare facilities in 24 border counties lost nearly \$200 million in one year alone as a result of providing emergency medical treatment to undocumented aliens. Texas is expected to receive \$47 million and California is expected to receive \$72 million under the program in Fiscal Year 2005.

February 15, 2005

Dr. Mark B. McClellan
Administrator
Centers for Medicare and Medicaid Services
P.O. Box 8000
Baltimore, MD 21244

Dear Dr. McClellan:

We are writing to request an update on the implementation of Section 1011 of the Medicare Modernization Act of 2003 (MMA). Health-care providers were supposed to begin, in December of 2004, submitting to be reimbursed for providing federally mandated, but uncompensated, emergency medical treatment to undocumented aliens. CMS was supposed to begin reimbursing them three months afterward. It is our understanding that the reimbursement program is not yet operational.

Under the Emergency Medical Treatment and Labor Act (EMTLA), hospitals are required to provide emergency health services regardless of a patient's status or ability to pay. Many hospitals are facing dire financial circumstances because they receive no reimbursement for the federally mandated emergency health services they provide to undocumented aliens.

Section 1011 of the MMA included \$250 million per year for fiscal years 2005 through 2008 for payments to reimburse states for the costs of providing this federally mandated emergency care. A recent study conducted by the U.S.-Mexico Border Counties Coalition found health-care facilities in 24 border counties lost nearly \$200 million in one year as a result of providing federally-required emergency medical treatment to illegal immigrants. Texas border hospitals alone pay nearly \$74 million a year in uncompensated costs, California border hospitals pay \$79 million a year, and Arizona providers incur yearly costs of an estimated \$100 million. Under the formula determined in Section 1011, Arizona's providers are expected to receive \$41 million in reimbursements in FY 2005, Texas is expected to receive \$47 million and California is expected to receive \$72 million.

We ask that you expedite completion of the implementation guidelines so that hospitals providing federally required emergency health services to undocumented aliens begin to receive reimbursement for providing those services. We appreciate your efforts and your attention to this important matter.

Sincerely,

Kay Bailey Hutchison (TX)
U.S. Senator

Dianne Feinstein (CA)
U.S. Senator

Jon Kyl (AZ)
U.S. Senator